

AMENDED IN ASSEMBLY JULY 12, 2011

AMENDED IN ASSEMBLY JUNE 28, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 12, 2011

**SENATE BILL**

**No. 408**

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**Introduced by Senator Hernandez**

February 16, 2011

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An act to add Section 1265.9 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 408, as amended, Hernandez. Health facilities: licensure.

Existing law provides for the licensure and regulation of health facilities administered by the State Department of Public Health. A violation of these provisions is a crime.

Existing law requires those desiring a license for a health facility, approval for a specified special service, or approval to manage a specified type of licensed health facility, that have not filed an application for a license to operate that facility, to file with the department a verified application on forms prescribed and furnished by the department, containing specified information.

Existing law provides that any requirement placed upon, or reference to, a corporation in the provisions regulating health facilities shall also apply to a limited liability company.

This bill would require a new license application to be filed for a health facility, as defined, when there is a change of ownership, as defined. This bill would also require a prescribed notice to be filed with

the department prior to a change in ownership, as defined, or change in control interest, as defined, for certain health facilities.

Because this bill expands the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1265.9 is added to the Health and Safety  
2 Code, to read:  
3 1265.9. (a) For purposes of this section, the following  
4 definitions shall apply:  
5 (1) "Change of ownership" means any of the following:  
6 (A) For a partnership, the removal, addition, or substitution of  
7 a partner.  
8 (B) For an unincorporated sole proprietorship, the transfer of  
9 title and property to another person.  
10 (C) For a corporation, the merger of the applicant's or provider's  
11 corporation into another corporation, or the consolidation of two  
12 or more corporations, resulting in the creation of a new corporation.  
13 The transfer of corporate stock or the merger of another corporation  
14 into the applicant's or provider's corporation does not constitute  
15 a change of ownership.  
16 (D) For a lease, the lease of all or part of an applicant's or  
17 provider's facility constitutes a change of ownership of the leased  
18 portion.  
19 (2) "Change in ownership" means a transaction where any of  
20 the following occurs:  
21 (A) A sale, transfer, lease, exchange, conveyance, or other  
22 disposal of a limited partnership interest, corporate shares, or  
23 limited liability company interest representing at least 20 percent  
24 of all ownership interests in a health facility that is described in  
25 subdivision (a), (b), or (f) of Section 1250 or in the current  
26 licenseholder.

1 (B) The merger of an entity that owns or operates a health  
2 facility described in subdivision (a), (b), or (f) of Section 1250 that  
3 does not result in a change in the taxpayer identification number  
4 of the licenseholder.

5 (C) A substitution of a new corporate member or member of  
6 the governing body, or any arrangement, written or oral, that would  
7 transfer voting control of a health facility described in subdivision  
8 (a), (b), or (f) of Section 1250. A substitution of a new corporate  
9 member or member of the governing body shall not constitute a  
10 change in ownership when the substitution occurs in the usual and  
11 regular course of the activities of a health facility described in  
12 subdivision (a), (b), or (f) of Section 1250.

13 (3) “Change in control interest” means a transaction where any  
14 of the following, except a change of ownership or change in  
15 ownership, occurs:

16 (A) A sale, transfer, lease, exchange, conveyance, or other  
17 disposal of a limited partnership interest, corporate shares, or  
18 limited liability company interest representing at least 10 percent  
19 of all ownership interests in a health facility described in  
20 subdivision (a), (b), or (f) of Section 1250, or in the licenseholder,  
21 but that represents less than 20 percent of the ownership interests  
22 in the health facility or licenseholder.

23 (B) A change in any member of the governing body or principal  
24 officers of a health facility described in subdivision (a), (b), or (f)  
25 of Section 1250 that does not transfer voting control of the health  
26 facility.

27 (b) A new license application for a health facility described in  
28 subdivision (a), (b), (c), (d), or (f) of Section 1250 shall be filed  
29 when there is a change of ownership in the health facility.

30 (c) At least 45 days prior to a change in ownership, or change  
31 in control interest in a health facility that is described in subdivision  
32 (a), (b), or (f) of Section 1250, a notice of the change shall be filed  
33 with the department. If the transaction is a change in ownership,  
34 a new license application shall be filed with the notice. If the  
35 transaction is a change of *in* control interest, a State Department  
36 of Public Health form HS 215A shall be filed with the notice.

37 (d) Notwithstanding the rulemaking provisions of Chapter 3.5  
38 (commencing with Section 11340) of Part 1 of Title 2 of the  
39 Government Code, the department may implement this section by

1 means of all facility letters, or similar instructions, without taking  
2 further regulatory action.

3 SEC. 2. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.